BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Application of HAWAIIAN ELECTRIC COMPANY, INC. HAWAII ELECTRIC LIGHT COMPANY, INC. For Approval to Commit Funds in Excess of $2,500,000 for the Purchase of the Hamakua Energy Partners Power Plant and the Related Financing Plan And Accounting Treatment; to Recover Certain 2016 Plant Addition Costs Through the Rate Adjustment Mechanism ("RAM") Above the RAM Cap, And to Include Fuel Costs in Hawaii Electric Light Company, Inc.'s Energy Cost Adjustment Clause Refinancing And Security Arrangements and Related Matters.	DOCKET NO. 2016-0033

DECISION AND ORDER NO. 34536

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DECISION AND ORDER

By this Decision and Order (the "Order"),[1] the Public Utilities Commission ("commission") denies the requests set forth in Hawaiian Electric Company, Inc.'s ("HECO")

[1]The Parties to this docket are HAWAIIAN ELECTRIC COMPANY, INC. ("HECO"), HAWAII ELECTRIC LIGHT COMPANY, INC. ("HELCO"), and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"), an ex officio party to this proceeding, pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62(a). Additionally, the commission has granted HAMAKUA ENERGY PARTNERS, L.P. ("HEP"), PANIOLO POWER COMPANY, LLC ("Paniolo Power"), PUNA PONO ALLIANCE ("Puna Pono"), and HU HONUA BIOENERGY ("Hu Honua") participant status in this proceeding.

and Hawaii Electric Light Company, Inc.'s ("HELCO") (collectively, HECO and HELCO will be referred to as "Applicants") Application, filed February 12, 2016,[2] for the reasons set forth below.

I.

BACKGROUND

A.

The HEP Facility And The Application

HELCO currently purchases electricity from a combined cycle, fossil-fuel generation Facility operated by HEP (the "HEP Facility"). The HEP Facility is capable of generating up to 60 megawatts ("MW") from two General Electric gas turbine generators, two Aalborg heat recovery steam generators, and one Mitsubishi double admission condensing steam turbine generator.[3] Presently, the HEP Facility is owned and operated by HEP and has provided electricity to HELCO pursuant to the terms of a Power Purchase Agreement ("PPA") since 2001.[4] The PPA is set to

[2]"Application of Hawaiian Electric Company, Inc., and Hawaii Electric Light Company, Inc.; Verification; Exhibits A - K; and Certificate of Service," filed February 12, 2016 (the "Application").

[3]Application at 7.

[4]Application at 7.

expire at the end of 2030; however, HELCO estimates that the HEP Facility's useful life will extend to 2040.[5]

Applicants request commission approval to commit approximately $86,200,000 for the purchase of the HEP Facility from HEP and Hamakua Land Partnership, L.L.P. ("Hamakua Land"), in addition to various requests related to capital recovery and accounting treatment relief (collectively, the "Purchase").[6] Specifically, Applicants request that the commission:

(1) Approve approximately $88,065,000 in funds to purchase the HEP Facility (which includes transfer taxes and scheduled overhaul costs), pursuant to the commission's General Order No. 7 ("G.O. 7");[7]

(2) Approve a financing plan which includes debt and equity financing (the "Financing Plan");[8]

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[5]Application at 10.

[6]Application at 2-3. Pursuant to Section 19.1 of the PPA, HELCO has a right of first refusal whereby HEP must first offer its interest in the HEP Facility to HELCO before it can offer to sell the HEP Facility to third parties. Id. at 8.

[7]Application at 2. Pursuant to G.O. 7, all proposed capital expenditures for any single project related to plant replacement, expansion, or modernization, in excess of $2.5 million, are subject to commission approval prior to commitment of funds. Applicants' $88,065,000 request includes approximately: (1) $84,500,000 for the base purchase price; (2) $1,700,000 for associated transfer taxes; and (3) $1,865,000 for overhaul costs for the HEP Facility's generating unit combustion turbine 2. Id.

[8]Application at 2; see also, id., Exhibit B.

(3) Approve the recovery of $85,400,000 in revenue requirements for plant additions associated with the HEP Facility purchase through the Decoupling Rate Adjustment Mechanism ("RAM") above the RAM Cap;[9]

(4) Approve the accounting for the $86,200,000 purchase price of the HEP Facility, subject to fair value assessment of the HEP Facility;[10]

(5) Approve the inclusion of any costs and credits issued under the December 2, 2011, Fuel Supply Agreement between Chevron Products Company and HEP (the "Fuel Contract") into HELCO's Energy Cost Adjustment Clause ("ECAC") to the extent such costs are not included in HELCO's base rates;[11] and

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[9]Application at 2-3. The RAM was established in Docket No. 2008-0274, during the commission's investigation into developing a mechanism to decouple the HECO Companies' revenue from the amount of electricity they sell, in an attempt to remove the disincentive for electric utilities to aggressively pursue Hawaii's clean energy objectives. See Final Decision and Order, filed August 31, 2010, in Docket No. 2008-0274, Commissioner Leslie H. Kondo, dissenting. The commission subsequently imposed a cap on the RAM to limit the amount of funds expended on capital projects that can be automatically included for recovery in a rate case proceeding without prior commission review. See Order No. 32735, "Modifying Decoupling Mechanisms and Establishing Briefing Schedule," filed March 31, 2015, in Docket No. 2013-0141.

[10]Application at 24-26. Applicants subsequently provided a HEP Facility valuation report performed by Duff & Phelps, LLC, on November 23, 2016 (the "Duff & Phelps Report").

[11]Application at 3.

(6) Terminate or otherwise eliminate the application of Decision and Order No. 17077, as modified by *Decision and Order 17089, filed in Docket No. 98-0013.*[12]

If approved, the Application would transfer ownership and operation of the HEP Facility to HELCO and terminate the PPA between HEP and HELCO.

B.

Procedural History

On February 12, 2016, Applicants filed the Application.

On February 24, 2016, HEP filed a motion to participate without intervention in this proceeding.[13] HELCO affirmatively supported HEP's Motion to Participate, while the Consumer Advocate did not take a position.[14]

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[12]Application at 3. Docket No. 98-0013 approved the power purchase agreement between HELCO and Encogen Hawaii, L.P. for the purchase of electricity from the HEP Facility. See Decision and Order No. 17077, filed July 14, 1999, in Docket No. 98-0013, as amended by Decision and Order No. 17089, filed July 21, 1999, in Docket No. 98-0013. In 2004, Energy Investors Fund acquired the HEP Facility, and in June 2010, the HEP Facility was purchased by HEP. Application at 7.

[13]"Motion to Participate Without Intervention by Hamakua Energy Partners, L.P.; Declaration of Kevin Monahan; and Certificate of Service," filed February 24, 2016 ("HEP Motion to Participate").

[14]See Letter from D. Brown to the commission regarding Applicants' Response to Motion to Participate," filed March 2, 2016; and "Division of Consumer Advocacy's Response

On March 3, 2016, Applicants filed a Motion for Protective Order to protect certain confidential and/or proprietary information it expected to be filed in this docket.[15] The commission granted Applicants' motion and issued a Protective Order on May 13, 2016, which the commission later amended on August 3, 2016, to provide the following two tiers of protective designations: "confidential" (withheld from the public) and "restricted" (withheld from the public as well as certain Parties and/or Participants).[16]

On March 3, 2016, Puna Pono moved to intervene in this proceeding.[17] HELCO opposed Puna Pono's motion to intervene, while the Consumer Advocate did not take a position.[18]

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to Motion to Participate Without Intervention by Hamakua Energy Partners, L.P.," filed February 26, 2016.

[15]"Hawaiian Electric Company, Inc. and Hawaii Electric Light Company, Inc.'s Motion for Protective Order; and Certificate of Service," filed March 3, 2016.

[16]See; Protective Order No. 33699, filed May 13, 2016; and Order No. 33842, "Amending Protective Order No. 33699," filed August 3, 2016 (collectively, the "Protective Order").

[17]"Puna Pono Alliance Motion to Intervene; Affidavit; and Certificate of Service," filed March 3, 2016 ("Puna Pono Motion to Intervene").

[18]See "Hawaiian Electric Company, Inc. and Hawaii Electric Light Company, Inc.'s Memorandum in Opposition to Puna Pono Alliance's Motion to Intervene; and Certificate of Service," filed March 10, 2016; and "Division of Consumer Advocacy's Response to Puna Pono Alliance's Motion to Intervene," filed March 4, 2016.

Paniolo Power also moved to intervene on March 3, 2016.[19] HELCO opposed Paniolo Power's motion to intervene, while the Consumer Advocate did not take a position.[20] Paniolo Power subsequently filed a motion for leave to file a reply to Applicants' opposition, to which Applicants did not respond and the Consumer Advocate did not take a position.[21]

Hu Honua also moved to intervene on March 3, 2016.[22] HELCO opposed Hu Honua's motion to intervene, while the Consumer Advocate did not take a position.[23]

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[19] "Paniolo Power Company, LLC's Motion to Intervene; Affidavit of Jose S. Dizon; and Certificate of Service," filed March 3, 2016 ("Paniolo Power Motion to Intervene").

[20] See "Hawaiian Electric Company, Inc. and Hawaii Electric Light Company, Inc.'s Memorandum in Opposition to Paniolo Power Company, LLC's Motion to Intervene; and Certificate of Service," filed March 10, 2016; and "Division of Consumer Advocacy's Response to Paniolo Power Company, LLC's Motion to Intervene," filed March 9, 2016.

[21] See "Paniolo Power Company, LLC's Motion for Leave to File a Reply to Hawaiian Electric Company, Inc. and Hawaii Electric Light Company, Inc.'s Memorandum in Opposition to Paniolo Power Company, LLC's Motion to Intervene; Exhibit 'A;' and Certificate of Service," filed March 30, 2016; and "Division of Consumer Advocacy's Response to Paniolo Power Company, LLC's Motion for Leave to File a Reply to Hawaiian Electric Company, Inc., and Hawaii Electric Light Company, Inc.'s Memorandum in Opposition to Paniolo Power Company, LLC's Motion to Intervene," filed April 6, 2016.

[22] "Hu Honua Bioenergy, LLC's Motion to Intervene; Affidavit of John G. Sylvia; and Certificate of Service," filed March 3, 2016 ("Hu Honua Motion to Intervene").

[23] See "Hawaiian Electric Company, Inc. and Hawaii Electric Light Company, Inc.'s Memorandum in Opposition to Hu Honua Bioenergy, LLC's Motion to Intervene; and Certificate of Service,"

On May 13, 2016, Summit Biofuel LLC ("Summit") moved to intervene in this proceeding.[24] HELCO opposed Summit's motion to intervene, while the Consumer Advocate did not take a position; additionally, HEP filed a letter with the commission, joining HELCO's opposition.[25]

On June 20, 2016, the commission issued its first set of information requests ("IRs") to HELCO,[26] to which HELCO responded on July 5 and 8, 2016.[27] On July 19, 2016, HELCO supplemented its response with updated information.[28]

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filed March 10, 2016; and "Division of Consumer Advocacy's Response to Hu Honua Bioenergy, LLC's Motion to Intervene," filed March 9, 2016.

[24]"Motion to Intervene," filed by Summit on May 13, 2016 ("Summit Motion to Intervene"). Pursuant to HAR § 6-61-57, all motions to intervene were due by March 3, 2016.

[25]See "Hawaiian Electric Company, Inc. and Hawaii Electric Light Company, Inc.'s Memorandum in Opposition to Summit Biofuel, LLC's Motion to Intervene; and Certificate of Service," filed May 20, 2016; "Division of Consumer Advocacy's Response to Summit Biofuel LLC's Motion to Intervene," filed May 17, 2016; and Letter from I. Sandison to the commission regarding HEP's Response to Summit Biofuel LLC's Motion to Intervene," filed May 24, 2016.

[26]See Letter from commission to Applicants, filed June 20, 2016 ("PUC-HELCO-IR-1 to -47").

[27]See "Hawaii Electric Light Company, Inc. Response to Commission Information Requests, filed July 5, 2016;" and Letter from K. Shinsato to the commission, filed July 8, 2016 (collectively, "Applicants Response to PUC-HELCO-IR-1 to -47").

[28]See Letter from K. Shinsato to the commission, filed July 19, 2016 ("Applicants Supplemental Response to PUC-HELCO-IR-1 to -47").

On August 12, 2016, the commission issued Order No. 33868, which denied the motions to intervene, but granted participant status to HEP, Puna Pono, Paniolo, and Hu Honua.[29] Order No. 33868 also instructed the Applicants and the Consumer Advocate to submit a proposed stipulated procedural schedule.

On August 17, 2016, the commission issued its second set of IRs to HELCO,[30] to which HELCO responded on September 2 and 7, 2016.[31] On September 23, 2016, HELCO supplemented its responses to provide additional information.[32]

On August 22, 2016, Applicants re-designated a number of their submissions from "confidential" to "restricted" in order to

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[29]See Order No. 33868, "Addressing Motions to Intervene and Participate, and Instructing the Applicants and Consumer Advocate to Submit a Proposed Stipulated Procedural Schedule and Statement of Issues," filed August 12, 2016 ("Order No. 33868"). Summit's request to participate in this docket was denied in its entirety due to the untimely nature of its request. See id. at 35.

[30]See Letter from the commission to D. Brown, filed on August 17, 2016 ("PUC-HELCO-IR-48 to -55").

[31]See Letter from K. Shinsato to the commission, filed on September 2, 2016 ("Applicants' Response to PUC-HELCO-IR-48 to -50 and PUC-HELCO-IR-53 to -55"); and Letter from K. Shinsato to the commission, filed on September 7, 2016 ("Applicants Response to PUC-HELCO-IR-51 and -52").

[32]See Letter from K. Shinsato to the commission, filed September 23, 2016 ("Applicants Supplemental Response to PUC-HELCO-IR-51 and -52").

withhold them from disclosure to Paniolo Power, Puna Pono, and Hu Honua.[33]

Also on August 22, 2016, pursuant to Order No. 33868, the Applicants and the Consumer Advocate filed a stipulated procedural order, which the commission relied upon in developing its own order setting forth the docket issues and procedural schedule, which the commission issued on September 1, 2016, in Order No. 33894.[34] The commission subsequently amended the procedural schedule on September 8, 2016.[35]

On September 7, 2016, Puna Pono, Paniolo Power, and Hu Honua each issued their first set of IRs to Applicants.[36] Also on September 7, 2016, the Consumer Advocate issued its IRs to the Parties and Participants.[37]

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[33]Letter from K. Shinsato to the commission, filed August 22, 2016.

[34]See Proposed "Stipulated Procedural Order," filed August 22, 2016 ("Proposed Stipulated Procedural Order"); and Order No. 33894, "Establishing Issues and Setting Procedural Schedule," filed September 1, 2016 ("Order No. 33894").

[35]See Order No. 33900, "Amending Procedural Schedule," filed September 8, 2016.

[36]See "Puna Pono Alliance Information Requests," filed September 7, 2016 ("PPA-IR-1 to -26"); "Paniolo Power Company, LLC's First Set of Information Requests to Parties," filed September 7, 2016 ("PPC-Applicants-IR-1 to -20"); and Hu Honua Bioenergy, LLC's First Set of Information Requests to Applicants," filed September 7, 2016 ("HHB-HELCO-IR-1 to -18").

[37]"Division of Consumer Advocacy's Submission of Information Requests to Parties," filed September 7, 2016 (respectively,

On September 14, 2016, the commission issued its third set of IRs to Applicants and its first set of IRs to HEP.[38] Both Applicants and HEP responded to the commission's IRs on October 7, 2016.[39]

On September 23, 2016, Puna Pono, HELCO, HEP, Hu Honua, and Paniolo Power each responded to IRs that had been issued to them by other Parties and/or Participants.[40]

"CA/HELCO-IR-1 to -11;" "CA/HEP-IR-1 to -5;" "CA/Hu Honua-IR-1 to -4;" "CA/Paniolo-IR-1 to -3;" and "CA/Puna Pono-IR-1 to -2").

[38]See Letter from the commission to K. Shinsato," filed September 14, 2016 ("PUC-HELCO-IR-56 to -60"); and Letter from the commission to I. Sandison," filed September 14, 2016 ("PUC-HEP-IR-1 to -5").

[39]Letter from I. Sandison to the commission, filed October 7, 2016 ("HEP Response to PUC-HEP-IR-1 to -5"); and Letter from K. Shinsato to the commission, filed October 7, 2016 ("Applicants Response to PUC-HELCO-IR-56 to -60").

[40]See "Puna Pono Alliance responses to Information Requests, filed September 23, 2016 ("Puna Pono Responses to CA/Puna Pono-IRs"); "Hawaii Electric Light Company, Inc.'s responses to Parties Information Requests, Books 1 and 2," filed September 23, 2016 ("HELCO Responses to CA/HELCO-IRs, HHB-HELCO-IRs, PPA-IRs, and PPC-Applicants-IRs"); "Hamakua Energy Partners, L.P.'s Response to Division of Consumer Advocacy's Submission of Information Requests to Parties," filed September 23, 2016 ("HEP Responses to CA/HEP-IRs"); "Hu Honua Bioenergy LLC's Response to Division of Consumer Advocacy's Submission of Information Requests to Parties, Filed September 7, 2016; Exhibit 'A'; and Certificate of Service," filed September 23, 2016 ("Hu Honua Response to CA/Hu Honua-IRs"); and "Paniolo Power Company, LLC's Response to Consumer Advocate's Submission of Information Requests to Parties, CA/Paniolo-IR-1 to 3, Filed September 7, 2016; Exhibits A to G; and Certificate of Service," filed September 23, 2016 ("Paniolo Power Response to CA/Paniolo-IRs").

On October 5, 2016, Hu Honua and Paniolo Power both issued supplemental information requests ("SIRs") to Applicants,[41] and the Consumer Advocate also issued its SIRs to the Applicants and the Participants.[42]

On October 19, 2016, Applicants responded to the SIRs from the Consumer Advocate, Hu Honua, and Paniolo Power.[43] Also on

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On September 26, 2016, HEP filed a motion seeking an enlargement of time to file its restricted responses to the Consumer Advocate's IRs, from September 23, 2016, to September 26, 2016. "Hamakua Energy Partner [sic] L.P.'s Motion for Enlargement of Time to File Its Restricted Responses to CA/HEP-IRs 1 Through 5; Memorandum in Support of Motion; Declaration of Counsel; and Certificate of Service," filed September 26, 2016. The Consumer Advocate did not oppose HEP's request, and the commission granted HEP's motion on October 5, 2016. See "Division of Consumer Advocacy's Response to Hamakua Energy Partner [sic] L.P.'s Motion for Enlargement of Time to File Its Restricted Responses to CA/HEP-IRs 1 Through 5," filed September 29, 2016; and Order No. 33963, "Granting Hamakua Energy Partners, L.P.'s Motion for Enlargement of Time to File Its Restricted Responses to CA/HEP-IRs 1 Through 5," filed October 5, 2016.

[41]"Hu Honua Bioenergy, LLC's Supplemental Information Requests to Applicants; and Certificate of Service," filed October 5, 2016 ("HHB-HELCO-IR-19 to -32"); and "Paniolo Power Company, LLC's Supplemental Information Requests to Applicants, PPC-Applicants-IR-21 to -39; and Certificate of Service," filed October 5, 2016 ("PPC-Applicants-IR-21 to -39").

[42]"Division of Consumer Advocacy's Submission of Supplemental Information Requests," filed October 5, 2016 (Respectively, "CA/HELCO-SIR-1 to -15;" "CA/HEP-SIR-1;" "CA/Hu Honua-SIR-1;" "CA/Paniolo-SIR-1 to -6;" and "CA/Puna Pono-SIR-1 to -2").

[43]Letter from K. Shinsato to commission, filed October 19, 2016 (respectively, "Applicants Response to CA/HELCO-SIR-1 to -15;" "Applicants Response to HHB-HELCO-IR-19 to -23;" and "Applicants Response to PPC-Applicants-IR-21 to -39").

October 19, 2016, HEP, Paniolo Power and Hu Honua responded to the Consumer Advocate's SIRs; Puna Pono responded to the Consumer Advocate's SIRs on October 21, 2016.[44]

On October 11, 2016, the commission issued its fourth set of IRs to Applicants[45] and its second set of IRs to HEP.[46] Applicants and HEP responded on October 24, 2016.[47]

On November 1, 2016, the commission, on its own motion, issued Order No. 34084, which amended the procedural schedule by offering the Consumer Advocate and the Participants an opportunity to file a second round of supplemental information requests to

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[44]Letter from I. Sandison to commission, filed October 19, 2016 ("HEP Response to CA/HEP-SIR-1"); "Paniolo Power Company, LLC's Response to Consumer Advocate's Submission of Supplemental Information Requests, CA/Paniolo-SIR-1 to 6, Filed October 5, 2016," filed October 19, 2016 ("Paniolo Power Response to CA/Paniolo-SIR-1 to -6"); "Hu Honua Bioenergy LLC's Response to Division of Consumer Advocacy's Submission of Supplemental Information Requests, Filed October 5, 2016; Exhibits 'A'-'C;' and Certificate of Service," filed October 19, 2016 ("Hu Honua Response to CA/Hu Honua-SIR-1"); and "Puna Pono Alliance Responses to Supplemental Information Requests; and Certificate of Service," filed October 21, 2016 ("Puna Pono Response to CA/Puna Pono-SIR-1 to -2").

[45]Letter from commission to K. Shinsato, filed October 11, 2016 ("PUC-HELCO-IR-61 to -71").

[46]Letter from commission to I. Sandison, filed October 11, 2016 ("PUC-HEP-IR-6 to -9").

[47]Letter from K. Shinsato to commission, filed October 24, 2016 ("Applicants Response to PUC-HELCO-IR-61 to -71"); and Letter from J. Tam-Sugiyama to commission, filed October 24, 2016 ("HEP Response to PUC-HEP-IR-6 to -9").

Applicants.[48] In doing so, the commission focused on Applicants' October 23, 2016, response to the commission's IRs, in which Applicants clarified that the estimated benefits associated with their ownership of the HEP Facility are attributable to the impacts of increased cycling flexibility.[49] As Applicants' response occurred after the procedural deadline to submit IRs, the commission extended the procedural schedule to provide the Consumer Advocate and Participants with the opportunity to issue SIRs regarding HELCO's proposed improved cycling function for the HEP Facility.[50]

Concurrently with Order No. 34084, the commission issued its fifth set of IRs to Applicants,[51] to which Applicants responded on November 16, 2016.[52]

On November 9, 2016, the Consumer Advocate filed a motion to modify the procedural schedule.[53] Instead of following the firm

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[48]See Order No. 34084, "Amending Procedural Schedule," filed November 1, 2016 ("Order No. 34084").

[49]Order No. 34084 at 2-6. Presently, under the PPA with HEP, HELCO is limited to starting the HEP Facility once a day.

[50]Order No. 34084 at 6-7.

[51]Letter from commission to K. Shinsato, filed November 1, 2016 ("PUC-HELCO-IR-72").

[52]Letter from K. Shinsato to commission, filed November 16, 2016 ("Applicants Response to PUC-HELCO-IR-72").

[53]"Division of Consumer Advocacy's Motion to Modify Order No. 34084 Amending Procedural Schedule; Memorandum in

dates set forth in Order No. 34084, the Consumer Advocate requested modifications to the procedural schedule based on the submission of the Duff & Phelps Report, which was expected to be distributed by November 18, 2016.[54] Applicants did not take a position on the motion,[55] and the commission granted the Consumer Advocate's request on November 23, 2016, in Order No. 34126.[56] On November 23, 2016, Applicants filed the Duff & Phelps Report.[57]

On November 10, 2016, the commission issued its sixth set of IRs to Applicants,[58] to which Applicants responded on November 28, 2016.[59]

Support of Division of Consumer Advocacy's Motion to Modify Order No. 34084 Amending Procedural Schedule; and Certificate of Service," filed November 9, 2016 ("CA Motion to Modify Order No. 34084").

[54]CA Motion to Modify Order No. 34084, Memorandum in Support, at 2-3.

[55]Letter from K. Shinsato to the commission, filed November 17, 2016.

[56]Order No. 34126, "Granting the Division of Consumer Advocacy's Motion to Modify Order No. 34084 Amending Procedural Schedule," filed November 23, 2016 ("Order No. 34126").

[57]Letter from K. Shinsato to commission, filed November 23, 2016.

[58]Letter from commission to K. Shinsato, filed November 10, 2016 ("PUC-HELCO-IR-73 to -81").

[59]Letter from K. Shinsato to commission, filed November 28, 2016 ("Applicants Response to PUC-HELCO-IR-73 to -81").

On November 18, 2016, Paniolo Power and Hu Honua issued their respective second sets of SIRs to Applicants.[60]

On December 7, 2016, Paniolo Power and Hu Honua issued their respective "additional" second set of SIRS, pursuant to Order No. 34084, as modified by Order No. 34126.[61] Also on this

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[60]"Paniolo Power Company, LLC's Second Round of Supplemental Information Requests to Applicants, PPC-Applicants-IR-40 to 45; and Certificate of Service," filed November 18, 2016 ("PPC-Applicants-IR-40 to -45"); and "Hu Honua Bioenergy, LLC's Second Round of Supplemental Information Requests to Applicants, HHB-HELCO-IR-33 to HHB-HELCO-IR-46; and Certificate of Service," filed November 18, 2016 ("HHB-HELCO-IR-33 to -46").

[61]"Paniolo Power Company's Additional Second Round of Supplemental Information Requests to Applicants, PPC-Applicants-IR-46; and Certificate of Service," filed December 7, 2016 ("PPC-Applicants-IR-46"); and "Hu Honua Bioenergy, LLC's Additional Second Round of Supplemental Information Requests to Applicants, HHB-HELCO-IR-47; and Certificate of Service," filed December 7, 2016 ("HHB-HELCO-IR-47"). See also, Order No. 34126 at 6 (setting the deadline for second round of SIRs to Applicants for two weeks after distribution of the Duff & Phelps Report).

This "additional" set of SIRS may have resulted from confusion arising between the issuance of Order No. 34084 and Order No. 34126. Order No. 34084 set the deadline for a second round of SIRs for November 18, 2016. Thus, Paniolo Power's and Hu Honua's second round of SIRs, filed November 18, 2016, are consistent with this Order. However, shortly thereafter, on November 23, 2016, the commission issued Order No. 34126, granting the Consumer Advocate's motion to modify the procedural schedule, which extended the date for the second round of SIRs to two weeks after the submission of the Duff & Phelps Report. Accordingly, Paniolo Power's and Hu Honua's "additional" second round of SIRs, filed December 7, 2016, are also consistent with Order No. 34126.

date, the Consumer Advocate issued its second round of SIRs to Applicants and HEP, pursuant to Order No. 34084.[62]

On December 21, 2016, Applicants responded to Paniolo Power's, Hu Honua's, and the Consumer Advocate's second round of SIRs (including the "additional" second round of SIRs submitted by Paniolo Power and Hu Honua).[63] It does not appear that HEP responded to the Consumer Advocate's second round of SIRs.

On December 23, 2016, Paniolo Power filed a motion to compel disclosure of certain information Applicants had designated as "restricted," pursuant to Paragraph No. 26 of the Protective Order.[64] Specifically, Paniolo Power stated that Applicants had designated certain portions of their responses to IRs and SIRs

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[62]"Division of Consumer Advocacy's Second Submission of Supplemental Information Requests," filed December 7, 2016 (respectively, "CA/HELCO-SIR-16 to -26;" and "CA/Puna HEP-SIR-2").

[63]Letter from K. Shinsato to commission, filed December 21, 2016 (respectively, "Applicants response to PPC-Applicants-IR-40 to -46;" Applicants Response to HHG-HELCO-IR-3 to -47;" and "Applicants Response to CA/HELCO-SIR-16 to -26"). Applicants stated that they would need additional time to prepare a response to CA/HELCO-SIR-17, but would provide a response no later than December 28, 2016. Id. at 2. Thereafter, Applicants provided a response to CA/HELCO-SIR-17 on December 28, 2016. Letter from K. Shinsato to commission, filed December 28, 2016 ("Applicants Response to CA/HELCO-SIR-17").

[64]"Paniolo Power Company, LLC's Motion to Compel Disclosure and/or Reclassify Certain Information Designated as Restricted; Memorandum in Support of Motion; Affidavit of Wil K. Yamamoto; Exhibits 'A' - 'D'; and Certificate of Service," filed December 23, 2016 ("Paniolo Power Motion to Compel").

as "restricted" (thereby preventing Participants such as Paniolo Power from viewing them), without meeting the standard set forth in the Protective Order.[65]

On December 28, 2016, the Consumer Advocate filed a response stating that it was not taking a positon on Paniolo Power's Motion to Compel.[66] However, HEP filed an opposition to Paniolo Power's Motion on January 3, 2017, as did Applicants on January 5, 2017.[67]

On January 11, 2017, pursuant to Order No. 34126, the Parties and Participants filed their Statements of Positon on the Application.[68]

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[65]Paniolo Power Motion to Compel at 1-2. Paniolo Power provided a list of seven IR and SIR responses it sought to re-designate as "confidential." See id. at page 6 of the Memorandum in Support.

[66]"Division of Consumer Advocacy's Response to Paniolo Power Company, LLC's Motion to Compel Disclosure and/or Reclassify Certain Information Designated as Restricted," filed December 28, 2016.

[67]"Hamakua Energy Partners, L.P.'s Opposition to Paniolo Power Company, LLC's Motion to Compel Disclosure and/or Reclassify Certain Information Designated as Restricted Filed on December 23, 2016; Declaration of Daniel R. Evers; and Certificate of Service," filed January 3, 2017 ("HEP Opposition to Paniolo Power Motion to Compel"); and "Hawaiian Electric Company, Inc. and Hawaii Electric Light Company, Inc.'s Memorandum in Opposition to Paniolo Power Company, LLC's Motion to Compel Disclosure and/or Reclassify Certain Information Designated as Restricted; and Certificate of Service," filed January 5, 2017 ("Applicants' Opposition to Paniolo Power Motion to Compel").

[68]"Puna Pono Alliance Statement of Position; and Certificate of Service," filed January 11, 2017 ("Puna Pono SOP"); "Hamakua Energy Partners, L.P.'s Statement of Position;

On January 18, 2017, Applicants filed their Reply Statement of Position.[69]

On January 27, 2017, the commission issued Order No. 34355, in which it addressed Paniolo Power's Motion to Compel.[70] The commission affirmed the Protective Order's compliance with the Uniform Information Practices Act ("UIPA"), HRS Chapter 92F, and provided guidance in applying the UIPA, based on opinions issued by the Office of Information Practices ("OIP"), the state agency responsible for implementing the UIPA.[71] The commission concluded that Applicants' justifications for restricting certain information may not meet the UIPA standards set forth by the OIP,[72] but deferred ruling on Paniolo Power's

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and Certificate of Service," filed January 11, 2017 ("HEP SOP"); "Hu Honua Bioenergy LLC's Statement of Position; and Certificate of Service," filed January 11, 2017 ("Hu Honua SOP"); "Paniolo Power Company, LLC's Statement of Position; Exhibits "1" – "2"; and Certificate of Service," filed January 11, 2017 ("Paniolo Power SOP"); and "Division of Consumer Advocacy's Statement of Position," filed January 11, 2017 ("CA SOP").

[69]"Hawaiian Electric Company, Inc. and Hawaii Electric Light Company, Inc.'s Reply Statement of Position; Exhibits A – D; and Certificate of Service," filed January 18, 2017 ("Applicants Reply SOP").

[70]Order No. 34355, "Addressing Paniolo Power Company, LLC's Motion to Compel Disclosure and/or Reclassify Certain Information Designated as Restricted," filed January 26, 2017 ("Order No. 34355").

[71]See Order No. 34355 at 22-31.

[72]Order No. 34355 at 31.

Motion to Compel and instructed Applicants to re-submit their justifications in light of the guidance provided in Order No. 34355.[73]

On February 3, 2017, Applicants submitted their revised justifications, pursuant to Order No. 34355.[74] Applicants stated that they had re-evaluated their confidential submissions and would be re-submitting a number of their previously "restricted" documents as either "confidential" or completely undesignated.[75] Applicants also provided a log summarizing the classified treatment of all of their "restricted" information that was subject to Paniolo Power's Motion to Compel; additionally, Applicants also provided a similar log detailing the confidentiality designations for all of HEP's "restricted" information that was subject to Paniolo Power's Motion to Compel.[76] However, due to the practical logistics of reviewing and un-redacting these documents, Applicants stated that they required more time to submit their revised responses, but would file them no later than

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[73]Order No. 34355 at 31-32.

[74]"Hawaiian Electric Company, Inc. and Hawaii Electric Light Company, Inc.'s Response to Order No. 34355, Issued January 26, 2017; Exhibits A - B; and Certificate of Service," filed February 3, 2017 ("Applicants Response to Order No. 34355").

[75]Applicants Response to Order No. 34355 at 2.

[76]See Applicants Response to Order No. 34355 at 2-3 and Exhibits A and B.

February 10, 2017.[77] Applicants subsequently filed their revised responses on February 10, 2017.[78]

Also on February 3, 2017, HEP filed a motion for leave to file supplemental briefing in opposition to Paniolo Power's Motion to Compel,[79] to which the Consumer Advocate did not take a position.[80]

On February 27, 2017, Paniolo Power filed motions for commission approval to file responses to both: (1) Applicants' Response to Order No. 34355; and (2) HEP's Motion for Leave to File Supplemental Briefing.[81] The Consumer Advocate

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[77]Applicants Response to Order No. 34355 at 2, n. 2.

[78]Letter from K. Shinsato to commission, filed February 10, 2017.

[79]"Hamakua Energy Partners, L.P.'s Motion for Leave to File Supplemental Briefing in Opposition to Paniolo Power Company, LLC's Motion to Compel Disclosure and/or Reclassify Certain Information Designated as Restricted Filed On December 23, 2016; Exhibit 1; and Certificate of Service," filed February 3, 2017 ("HEP Motion for Leave to File Supplemental Briefing").

[80]"Division of Consumer Advocacy's Response to Hamakua Energy Partners, L.P.'s Motion for Leave to File Supplemental Briefing in Opposition to Paniolo Power Company, LLC's Motion to Compel Disclosure and/or Reclassify Certain Information Designated as Restricted Filed on December 23, 2016," filed February 8, 2017.

[81]"Paniolo Power Company, LLC's Motion for Leave to File Response to Hawaiian Electric Company, Inc. and Hawaii Electric Light Company, Inc.'s Response to Order No. 34355, Issued January 26, 2017; Exhibit A; and Certificate of Service," filed February 27, 2017 ("Paniolo Power Motion for Leave to File Response to Applicants' Response to Order No. 34355"); and "Paniolo Power Company, LLC's Motion for Leave to File Response to Hamakua Energy Partners, L.P.'s Motion for Leave to File Supplemental Briefing, Filed February 3, 2017; Exhibit A;

did not take a position on either of Paniolo's motions for leave to file responses.[82]

II.

PARTIES AND POSITIONS

A.

Applicants

HECO is an operating public utility engaged in the production, purchase, transmission, distribution, and sale of electricity on the island of Oahu.[83]

HELCO is a wholly-owned subsidiary of HECO and is an operating public utility engaged in the production, purchase, transmission, distribution, and sale of electricity on the island of Hawaii.[84]

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and Certificate of Service," filed February 27, 2017 ("Paniolo Power Motion for Leave to File Response to HEP Motion for Leave"). Paniolo Power attached draft copies of its proposed Responses as "Exhibit A" to each of its respective Motions.

[82]"Division of Consumer Advocacy's Response to Paniolo Power Company, LLC's Motion for Leave to File Response to Hawaiian Electric Company, Inc. and Hawaii Electric Light Company, Inc.'s Response to Order No. 34355, Issued January 26, 2017," filed March 2, 2017; and "Division of Consumer Advocacy's Response to Paniolo Power Company, LLC's Motion for Leave to File Response to Hamakua Energy Partners, L.P.'s Motion for Leave to File Supplemental Briefing, Filed February 3, 2017," filed March 2, 2017.

[83]Application at 4.

[84]Application at 4-5.

Applicants maintain that the Purchase is financially advantageous to HELCO's customers. The HEP Facility currently provides electricity to HELCO pursuant to the terms of the PPA. Applicants initially estimated that the Purchase will save approximately $40,400,000 over the remaining 15-years of the PPA period, with customers estimated to save approximately $74,100,000 over the remaining useful life of the HEP Facility (expected to last until 2040).[85]

Applicants state that the Purchase will result in the following benefits for HELCO's customers: (1) eliminate capacity charges, which are fixed payments paid to HEP pursuant to the PPA; and (2) lower operating costs associated with unit fuel costs by replacing the PPA's contractual heat rates with actual heat rates, which are lower.[86] Applicants estimate that this will result in approximate savings of $16,000,000 and $24,000,000, respectively.[87]

Applicants also claim that the Purchase will provide HELCO with increased operational flexibility which will increase system reliability and grid reliability. The PPA currently limits the HEP Facility to thirty (30) starts per month; similarly the HEP Facility's Covered Source Permit ("CSP") limits the

[85]Application at 10-11 and Exhibit F.

[86]Application at 13-14.

[87]Application at 13-14 and Exhibit G.

HEP Facility to no more than one start per day.[88] As a result, Applicants state that the HEP Facility must leave a unit operating throughout the day (including during low demand periods) if it is anticipated that the HEP Facility will be needed to serve demand later in the day (e.g., during evening peak load), which results in increased costs and can require curtailment of variable renewable energy sources.[89]

If the Purchase is approved, Applicants state that the PPA's start-up limitations will be removed and HELCO will also seek modification of the CSP.[90] Concomitantly, Applicants state that they would install equipment to bypass the heat recovery steam generator, which would allow HELCO to operate the HEP Facility in single- or simple-cycle mode (rather than dual-cycle mode), which would allow for faster online time, improved operational efficiency, and the ability to meet short-term demand needs.[91]

Additionally, Applicants state that ownership of the HEP Facility will allow HELCO to increase operational efficiency and better coordinate HEP Facility maintenance and dispatch with HELCO's other generating units, ultimately improving HELCO's

[88]Application at 14.

[89]Application at 14.

[90]Application at 14-15.

[91]Application at 15.

ability to manage reliability and production costs of dispatchable grid resources.[92] Applicants also state that the Purchase will provide opportunities to explore other modifications to the HEP Facility, such as converting the HEP Facility to LNG or a future renewable fuel, acts which are currently not provided for under the existing PPA.[93]

Applicants maintain that the Purchase price is reasonable under a number of different calculations, including (1) "an economic analysis of [HEP's] operational costs for the remainder of the PPA term (15 years) plus an estimate of the IPP [individual power purchaser] costs for an additional 10 years beyond the PPA period (for a total of 25 years)[94] versus [HELCO's] estimated operational costs as owner and operator of the HEP Facility[;]"[95] (2) a breakeven analysis based on the estimated revenue requirements for the remaining 15 years of the PPA;[96] (3) a business valuation using the discounted cash flow

[92]Application at 16.

[93]Application at 16-17.

[94]As noted supra, the remaining term of the PPA is 15 years (set to expire in 2030), and Applicants estimate that the HEP Facility has an additional 10 years of usefulness (i.e., until 2040).

[95]Application at 17-18.

[96]Application at 19.

("DCF") methodology;[97] and (4) an estimate of the replacement costs for the HEP Facility (to be conducted as part of the Duff & Phelps Report).[98] According to Applicants, under any of these calculations, the Purchase price of $84,500,000 represents significant savings, which can be passed on to customers.[99]

B.

The Consumer Advocate

The Consumer Advocate states that there are potential benefits to HELCO acquiring the HEP Facility, but raises concerns that the Purchase, as currently structured, presents unreasonable risks to customers.[100] Thus, while the Consumer Advocate supports the Purchase in principle, it maintains that certain conditions must be added in order to mitigate risks to customers, including: (1) downwardly revising the Purchase price to $60,000,000;[101]

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[97]Application at 19.

[98]Application at 19-20.

[99]See Application at 17-19. See also, id., Exhibit F at 5-6; and Duff & Phelps Report at iv and v.

[100]CA SOP at 2.

[101]Although not specified in the Consumer Advocate's Statement of Position, it appears that this proposed $60,000,000 is intended to account for both the actual Purchase price ($84,500,000, per the Application), as well as the associated transfer taxes ($1,700,000, per the Application) and the contemplated capital expenditures to overhaul the CT-2 turbine ($1,865,000, per the Application). See CA SOP at 3.

(2) capping the operations and maintenance expenses for the HEP Facility at 10% of the estimated expenses; (3) disallowing HELCO to obtain cost recovery for the HEP Facility after it is no longer used or useful; (4) requiring HELCO to file copies of all closing documentation associated with the Purchase; and (5) requiring HELCO to provide status reports to the commission and Consumer Advocate on the "Conditions Precedent" set forth in Exhibit E of the Asset Purchase Agreement,[102] along with any associated costs.[103]

The Consumer Advocate disagrees with Applicants' economic analyses supporting the Purchase. First, regarding the breakeven analysis, the Consumer Advocate notes that while Applicants project a "breakeven" cost of approximately $109,000,000 (which is higher than the estimated $88,065,000 for the Purchase and capital improvements to the HEP Facility), this merely represents a "first cut" to determine whether the proposed Purchase should even be considered, much less approved.[104]

Second, regarding Applicants' economic analysis, the Consumer Advocate notes that not all costs were included. For example, Applicants' pointed to increased operational

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[102]The Asset Purchase Agreement is attached as Exhibit A to the Application.

[103]CA SOP at 2-3.

[104]CA SOP at 11-12.

flexibility as a benefit, but did not include the costs associated with bypassing the heat recovery steam generator so as to enable dual-cycle capabilities.[105] Furthermore, the Consumer Advocate states that a number of Applicants' assumptions are based on HELCO's Power Supply Improvement Plan ("PSIP")[106] that was in effect at the time of the filing of the Application (i.e, the August 2014 PSIP), and that subsequently, two updates to HELCO's PSIP have been filed (April 2016 and December 2016), which require revisions to Applicants' economic analysis.[107]

Third, regarding a HEP Facility valuation analysis,[108] the Consumer Advocate disputes some of the assumptions and data in the Duff & Phelps Report, noting that the capacity factors provided by HELCO in its pending 2016 test year rate increase proceeding are not utilized in the Duff & Phelps Report.[109] Accordingly,

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[105]CA SOP at 13.

[106]The PSIP is the subject of Docket No. 2014-0183, which is currently ongoing.

[107]CA SOP at 14.

[108]The Consumer Advocate states that the Duff & Phelps Report is similar to the DCF analysis performed by Applicants, and elected to analyze and focus its review on the Duff & Phelps Report. <u>See</u> CA SOP at 16-17.

[109]CA SOP at 17-19. The commission notes that the Consumer Advocate may have inadvertently disclosed restricted information regarding the Duff & Phelps Report in the Consumer Advocates's Statement of Position. <u>See</u>, CA SOP at 24. As discussed, <u>infra</u>, the commission will seal the Consumer Advocate's Statement of Position, filed January 11, 2017,

the Consumer Advocate maintains that adjustments should be made to correct for these issues, which would reduce the proposed Purchase price by $35,000,000.[110] The Consumer Advocate argues that to the extent Applicants are willing to pay a higher amount to HEP to consummate the Purchase, Applicants' recovery should be limited to $60,000,000 through HELCO's revenue requirement.[111]

The Consumer Advocate acknowledges that under the right circumstances, utility ownership of a generation asset, such as the HEP Facility, may be desirable, provided that conditions are in place to balance the potential benefits and risks.[112] For example, the Consumer Advocate notes that the HELCO ownership of the HEP Facility would permit HELCO greater flexibility in dispatching the HEP Facility, "which could facilitate the inclusion of increased levels of renewable energy."[113] Accordingly, the Consumer Advocate recommends approval of the Purchase, subject to the conditions listed above.[114]

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and instructs the Consumer Advocate to file a properly redacted version.

[110]CA SOP at 19.

[111]CA SOP at 3 and 27.

[112]See CA SOP at 19-20.

[113]CA SOP at 20.

[114]CA SOP at 27-28.

C.

HEP

HEP, as the seller in the Purchase with HELCO, supports the Application. HEP echoes Applicants' position that the Purchase price is fair and reasonable and will return cost savings to customers. HEP points to HELCO's breakeven and DCF analyses which valued the HEP Facility at $109,000,000 and $98,000,000, respectively, both far above the Purchase price of $84,500,000.[115] HEP notes that HELCO's analysis estimates net cost savings of approximately $40,400,000 through the end of the PPA (i.e., 2030), and approximately $74,100,000 over the expected remaining life of the HEP Facility (i.e., 2040).[116] Additionally, HEP provides its own analysis calculating the cost for replacing the HEP Facility's generation, and estimates this value at $163,000,000.[117]

In addition, HEP maintains that the HEP Facility is a highly valuable asset that will provide the operational flexibility demanded by HELCO's system as variable renewables and units are retired.[118] In particular, HEP notes that the HEP Facility has a combined cycle plant that is capable of providing

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[115]HEP SOP at 6.

[116]HEP SOP at 7 (citing Application, Exhibit F at 2-3).

[117]HEP SOP at 11 (relying on the HECO Companies' Integrated Resource Plan filed June 28, 2013, in Docket No. 2012-0036).

[118]HEP SOP at 11.

firm capacity; quick start, ramping and dispatch flexibility; and ancillary services to maintain system reliability.[119] Furthermore, even if not dispatched routinely, HEP maintains that the HEP Facility remains a valuable asset for backing up non-firm renewable generators (in this regard, HEP notes that HELCO has recently announced plans to aggressively seek at least 59 MW of additional variable renewable generation though 2021 and plans to retire the Puna, Hill 5, and Hill 6 generation units).[120]

D.

Paniolo Power[121]

Paniolo Power opposes the Application. In support of its opposition, Paniolo Power asserts the following: (1) Applicants have refused to provide relevant information to Paniolo Power, which has interfered with Paniolo Power's ability to conduct a full evaluation of the HEP Facility; (2) the proposed Purchase price is significantly higher than the actual value of

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[119]HEP SOP at 8-9.

[120]HEP SOP at 10 (citing the "Hawaiian Electric Companies' PSIPs Update Report Filed December 23, 2016," filed in Docket No. 2014-0183 on December 23, 2016, at 6-20 and M-8).

[121]Paniolo Power asserts that the deadline for it to file its Statement of Position, as provided in Order No. 34126, has not yet commenced, as Applicants have not yet made the Duff & Phelps Report available to Paniolo Power. Paniolo Power SOP at 2. Nevertheless, Paniolo Power has filed a Statement of Position out of an abundance of caution. Id. at 4.

the HEP Facility; (3) utility ownership of the HEP Facility would actually result in additional risk and higher operating costs than if the HEP Facility continued as an IPP; (4) Applicants' purported qualitative benefits are insignificant and negligible; (5) Applicants have failed to evaluate the Purchase in the context of long-term resource planning for the island of Hawaii; and (6) utility ownership of the HEP Facility is contrary to State law and policy, including the commission's Competitive Bidding Framework and Inclinations.[122]

Paniolo Power disputes Applicants' valuation methods,[123] and provides its own, alternate, value calculations for the HEP Facility, based on the capacity value and straight-line value.[124] According to Paniolo Power's calculations, the capacity value of the HEP Facility is between approximately $59,800,000 and $50,700,000.[125] Similarly, using a straight-line depreciation

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[122]Paniolo Power SOP at 5-6.

[123]Paniolo Power notes that it cannot directly address Applicants' valuation methods, as the Duff & Phelps Report has not been made available to Paniolo Power. Paniolo Power SOP at 9.

[124]Paniolo Power SOP at 9.

[125]Paniolo Power SOP at 10-11. Paniolo Power performed two capacity calculations, one assuming a larger 33 MW capacity, and another using a lesser 28 MW capacity. For the lesser, 28 MW capacity, Paniolo Power states that the estimated capacity value for the HEP Facility is "$59.8 Million," but the accompanying calculation "($108,778,215 x 0.47 = $50,763,167)" indicates that the estimated capacity value is closer to $50.1 million. Id.

method, Paniolo Power estimates a straight-line value for the HEP Facility in the range of $51.3 to $53.7 million.[126] Thus, under either of its calculations, Paniolo Power argues that the proposed Purchase price of $84,500,000 is "unacceptably high" and that "[i]t would not be in the public interest for ratepayers to cover the cost of the proposed acquisition at such an inflated valuation."[127]

Additionally, Paniolo Power takes issue with Applicants' cost comparisons for utility ownership of the HEP Facility. Paniolo Power states that while the operating costs of an IPP, such as HEP, are fixed by the PPA, utility ownership would permit the utility to seek adjustments to recovery for cost overruns through their rate case filings.[128] Furthermore, utility ownership would expose customers to capital improvement costs to the HEP Facility (for example, Paniolo Power observes that Applicants have contemplated installing a heat recovery steam generator bypass to the HEP Facility).[129]

In comparison to these increased costs, Paniolo Power argues that Applicants have demonstrated very few customer

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[126]Paniolo Power SOP at 11.

[127]Paniolo Power SOP at 11.

[128]Paniolo Power SOP at 14.

[129]Paniolo Power SOP at 14-15.

benefits. For example, Paniolo Power questions why Applicants cannot negotiate with HEP to modify the one start-up per day condition or install more efficient equipment, especially considering that Applicants were apparently able to negotiate a Purchase price that is below the HEP Facility's face value.[130]

Moreover, Paniolo Power asserts that Applicants' calculations mistakenly assume that the PPA will be extended to 2040. Paniolo Power points to Applicants' response to PUC-HELCO-IR-51, in which they estimate $38.3 million in savings through the year 2040. However, Paniolo Power maintains that such calculations are flawed, as they assume that after the PPA's expiration in 2030, it will be renewed under similar capacity payments and terms, despite the opportunity to re-negotiate the PPA and contrary to modeling assumptions used by HELCO in other commission proceedings.[131] As a result, Paniolo Power states that Applicants' calculations artificially enhance the attractiveness of the Purchase.[132]

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[130]Paniolo Power SOP at 16-17.

[131]Paniolo Power SOP at 20-21 (referring to Docket No. 2014-0183).

[132]Paniolo Power SOP at 21.

E.

Hu Honua[133]

Hu Honua opposes the Application. Similar to Paniolo Power, Hu Honua argues that Applicants' estimated benefits are based on flawed assumptions and calculations. First, Hu Honua argues that Applicants' projections about the HEP Facility's future use are speculative and form an incomplete basis for estimating future cost savings. Hu Honua states that Applicants' analyses do not take into account the risks associated with HEP Facility ownership (i.e., operations, maintenance, and repair costs).[134] Additionally, Hu Honua states that Applicants mistakenly presume that the PPA will continue past 2030 with only a small reduction in capacity payments, despite the State's goals to increase renewable energy and decrease reliance on fossil fuels.[135] Similarly, Hu Honua argue that because Applicants' estimated savings are associated with more efficient operation of the HEP Facility, they rely on increased dispatch of the HEP Facility to support their projected customer savings,

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[133]Hu Honua also asserts that the deadline for it to file its Statement of Position, as provided in Order No. 34126, has not yet commenced, as Applicants have not yet made the Duff & Phelps Report available to Hu Honua. Hu Honua SOP at 1-2, n. 1. Nevertheless, Hu Honua states that it filed its Statement of Position out of an abundance of caution. Id.

[134]Hu Honua SOP at 5-6.

[135]Hu Honua SOP at 6-7.

an operational theory that is inconsistent with the State's goals of reducing fossil fuel generated energy.[136]

Additionally, Hu Honua observes that Applicants' have changed a number of their assumptions during the discovery process in this proceeding, which undermines the credibility of their projected savings calculations.[137] This is compounded by what Hu Honua argues is a "lack of transparency" in which Applicants have allegedly "adopted an evasive and at times blatantly misleading approach that has inhibited the efforts of the Participants to aid the Commission in the development of a sound record in this docket."[138] Specifically, Hu Honua argues that Applicants have either misused or inconsistently used the "confidential" and "restricted" designations provided by the Protective Order to withhold critical information.[139]

F.

Puna Pono

Puna Pono opposes the Application. In support of its opposition, Puna Pono argues that Applicants have not justified

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[136]Hu Honua SOP at 8-11.

[137]See Hu Honua SOP at 12-18.

[138]Hu Honua SOP at 23.

[139]Hu Honua SOP at 23-25.

the Application.[140] In particular, Puna Pono argues that Applicants' cost analyses all compare the HEP Facility's current operations to HELCO-owned operations under different conditions, which prevents a straightforward "apples-to-apples" comparison.[141] Additionally, Puna Pono states that Applicants' arguments for operational benefits are unpersuasive. For example, Puna Pono argues that Applicants have not demonstrated why HELCO cannot negotiate with HEP to obtain a CSP modification to start the HEP Facility more than once a day.[142] Puna Pono also raises concerns regarding the HEP Facility's environmental impact, the use of LNG at the HEP Facility, and the risk that the HEP Facility may become a "stranded" cost in the future.[143]

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[140]Puna Pono SOP at 4.

[141]Puna Pono SOP at 2.

[142]Puna Pono SOP at 2-3.

[143]Puna Pono SOP at 3-4.

G.

Applicants' Reply

In response to the Consumer Advocate's Statement of Position, while Applicants agree that they should not be allowed cost recovery of any remaining book value of the HEP Facility once it is no longer used and useful, they oppose a reduction in Purchase price to $60 million and state that this would not be acceptable to HEP.[144] Applicants state that if recovery is limited to this amount, the Purchase will not be feasible and HELCO will terminate the Purchase agreement.[145] Applicants argue that the analysis performed by the Consumer Advocate to arrive at the $60 million figure is flawed and misinterprets the Duff & Phelps Report to support this conclusion.[146] Applicants maintain that the Purchase price of $84.5 million is reasonable and will result in net savings to customers.[147]

Likewise, Applicants oppose the proposed condition which would limit O&M recovery at the HEP Facility to 10% of

[144]Applicants Reply SOP at 6-7.

[145]Applicants Reply SOP at 8.

[146]Applicants Reply SOP at 8-11.

[147]Applicants Reply SOP at 11-12. Again, this figure does not include estimated transfer taxes and capital expenditures associated with the planned overhaul to one of the HEP Facility's generators.

the estimated O&M expenses.[148] Applicants argue that the Consumer Advocate has not provided any explanation for this proposed condition and that the utility's rate case proceedings already provide an adequate opportunity to determine the amount of O&M expenses HELCO should be able to recover from ratepayers.[149]

In response to the Participants' Statements of Position, Applicants maintain that none have offered compelling arguments to deny the Application. In response to Paniolo Power, Applicants argue that Paniolo Power does not possess the expertise or knowledge to credibly challenge the HEP Facility valuation provided in the Duff & Phelps Report.[150] Applicants also argue that Paniolo Power's lack of experience in operating utility-scale generation units undermines their arguments regarding Applicants' estimated operational benefits, including reduced O&M costs.[151] Furthermore, Applicants argue that attempts to re-negotiate the PPA are misplaced, as they ignore the fact that HEP approached HELCO with an offer to sell the HEP Facility, pursuant to the PPA's

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[148]Applicants Reply SOP at 7.

[149]Applicants Reply SOP at 12-13.

[150]See Applicants Reply SOP at 25-27.

[151]See Applicants Reply SOP at 27-28.

right of first refusal, indicating that HEP wished to liquidate its interest in the HEP Facility.[152]

In response to Hu Honua's Statement of Position, Applicants contend that their responses have not been inconsistent throughout this proceeding, but represent Applicants' good faith efforts to provide as complete a picture as possible.[153] To the extent HELCO's PSIP updates have altered their IR responses, Applicants maintain that these are merely reflections of the challenges that the utility and the commission are facing in planning for the State's energy generation future.[154]

Applicants deny Hu Honua's claim that they have excluded the operational risks of owning the HEP Facility by pointing out that HELCO has substantial experience in operating the similar combined cycle generation plan at Keahole.[155] Finally, Applicants acknowledge that the terms of an extended PPA are unknown at this time, but note that under their analyses, customer savings are expected to be realized regardless of whether the PPA ends in 2030 or is extended to 2040.[156]

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[152]Applicants Reply SOP at 28.

[153]Applicants Reply SOP at 32-33.

[154]Applicants Reply SOP at 33.

[155]Applicants Reply SOP at 33.

[156]Applicants Reply SOP at 34.

In response to Puna Pono, Applicants state that: (1) HELCO ownership of the HEP Facility will support the commission's vision for integrating more renewable energy resources and providing stability to the grid; (2) a straight "apples-to-apples" comparison is not possible for the HEP Facility under these circumstances; and (3) HEP's desire to liquidate its interest in the HEP Facility precludes any attempts to re-negotiate the PPA to achieve similar operational savings that would occur under HELCO ownership.[157]

Applicants also note the support for the Application in HEP's Statement of Position and joins in HEP's arguments.[158]

III.

LEGAL AUTHORITY

Pursuant to G.O. 7 Part II, section 2.3(g)(2):

> Proposed capital expenditures for any single project related to plant replacement, expansion or modernization, in excess of [$2,500,0000, excluding customer contributions[159]] shall be submitted to the Commission for review at least 60 days prior to the commencement of construction of

[157]Applicants Reply SOP at 36-37.

[158]Applicants Reply SOP at 37-38.

[159]G.O. 7's original threshold was "$500,000 or 10 per cent of the total plant in service, whichever is less." On May 27, 2004, the commission issued Decision and Order No. 21002 in Docket No. 03-0257, which amended the threshold to its present amount.

> commitment for expenditure, whichever is earlier. If the Commission determines, after hearing on the matter, that any portion of the proposed project provides facilities which are unnecessary or are unreasonably in excess of probable future requirements for utility purposes, then the utility shall not include such portion of the project in its rate base. If the utility subsequently convinces the Commission that the property in question has become necessary or useful for public utility purposes, it may then be included in the rate base. Failure of the Commission to act upon the matter and render a decision and order within 90 days of the filing by the utility shall allow the utility to include the project in its rate base without the determination by the Commission required by this rule. The data submitted under this rule shall be in such form and detail as prescribed by the Commission.[160]

Here, Applicants seek commission approval to commit approximately $88,065,000 in funds for the acquisition and improvement of the HEP Facility.[161] Accordingly, the provisions of G.O. 7 apply to this proceeding.

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[160]In their Proposed Stipulated Procedural Order, the Parties proposed procedural dates that extended far beyond the ninety (90) day period and did not provide for a hearing date. <u>See</u> Stipulated Procedural Order at 5. Accordingly, the commission construes this as a waiver of the G.O.7's provision for a hearing and a 90 day decision-making period.

[161]Application at 10.

IV.

FINDINGS AND CONCLUSIONS

Upon reviewing the position statements submitted by the Parties and Participants, the responses to IRs, and all other matters in the record, the commission sets forth the following findings and conclusions.

A.

HELCO's Updated Forecasts Indicate
A Declining Role For The HEP Facility

1. As a preliminary matter, the commission notes that since the filing of the Application, there have been several significant changes that have affected the Purchase assumptions and supporting analyses.

2. First, in the Application, Applicants assumed that the HEP Facility would be converted to LNG in 2021, whether the HEP Facility remained as an IPP or was acquired by HELCO.[162] Since then, HECO, HELCO, and Maui Electric Company, Limited ("MECO"), have withdrawn their joint application for approval of an LNG Fuel Supply and Transport Agreement.[163] As a result of this

[162]See Application, Exhibit F at 1.

[163]See "Withdrawal of Application of Hawaiian Electric Company, Inc., Hawaii Electric Light Company, Inc., and Maui Electric Company, Limited; and Certificate of Service," filed July 19, 2016, in Docket No. 2016-0135. Based on the Companies' withdrawal, the commission closed this docket on

withdrawal, the HEP Facility will remain an oil-fired power plant without any benefits to customers through lower-cost fuel.

3. Second, HELCO has introduced new data in the form of its April 2016 and December 2016 updates to its Power Supply Improvement Plan ("PSIP Updates"),[164] which have significantly altered assumptions relied upon in the Application (which were based on assumptions from HELCO's August 2014 PSIP).[165]

4. The April 2016 PSIP Update notes that there are a number of renewable resource opportunities on Hawaii Island. As renewable resources are developed on the path to the State's 100% RPS goals, the contribution from existing fossil fuel sources, such as the HEP Facility, is expected to decrease.

5. With respect to the HEP Facility's operation, projected power production estimates differ under the April 2016 PSIP Update's various themes: Theme 1 (Accelerated Renewable Development); Theme 2 (LNG Conversion in 2021); and Theme 3 (No LNG conversion). The following Table 1 compares the projected power

July 21, 2016. See Order No. 33824, "Closing The Docket," filed July 21, 2016.

[164]See "Hawaiian Electric Companies' PSIPs Update Report Filed April 1, 2016," filed April 1, 2016 ("April 2016 PSIP Update"), and "Hawaiian Electric Companies' PSIPs Update Report Filed December 23, 2016," filed December 23, 2016 ("December 2016 PSIP Update"), both filed in Docket No. 2014-0183.

[165]See Applicants Response to PUC-HELCO-IR-49.

production from the HEP Facility assumed in the Application and the April 2016 PSIP Update Themes:

Table 1[166]

HEP Power Production *(GWH)*

Year	Application (August 2014 PSIP)	Theme 1 (April 2016 Update)	Theme2 (April 2016 Update)	Theme3 (April 2016 Update)
2016	279.2	146	146	146
2017	272.2	135	135	135
2018	280.5	143	144	144
2019	286.2	133	134	134
2020	242.4	212	213	213
2021	246.7	213	304	214
2022	250.6	155	216	161
2023	258.8	145	212	156
2024	255.4	107	218	160
2025	231.3	106	217	162
2026	236.4	49	216	163
2027	230.9	45	142	111
2028	231.7	28	139	109
2029	228.9	25	122	98
2030	225.3	10	53	43
2031	230.7	15	58	48
2032	224.7	12	56	46
2033	227.4	13	59	48
2034	220.8	12	38	31
2035	219.2	14	47	40
2036	220.3	12	45	38
2037	216.0	13	57	47
2038	218.6	16	47	40
2039	213.4	17	52	43
2040	209.8	18	47	47

[166]<u>See</u> Applicants Responses to PUC-HELCO-IR-11 and -18.

6. Table 1 shows a significant difference in the estimated energy production, depending on which set of assumptions is used. Under the April 2016 PSIP Update, the HEP Facility's energy production decreases gradually as more renewables become available. This stands in contrast to the Application, in which the HEP Facility's projected energy production is significantly higher and continues at that level until the end of the Facility's expected life in 2040.

7. In response to PUC-HELCO-IR-49, HELCO explains that the energy production estimates in the Application are from their August 24, 2014 PSIP submittal.[167] For its April 2016 PSIP Update, HELCO's planning assumptions were revised. Specifically, HELCO states:

> On April 1, 2016, Hawaii Electric Light submitted its PSIP Update ("PSIP Update") with revised planning assumptions such as, but not limited to, electricity sales forecasts, fuel forecasts, and resource assumptions, with an objective to achieve a 100% renewable energy future. As discussed in Chapter 7 of the PSIP Update, Hawaii Electric Light's preferred plan included firm dispatchable renewable additions in 2022, 2027, and 2030, along with increasing wind and photovoltaic resources. The cumulative effect of the updated assumptions and planning horizon reduced HEP's energy production in the PSIP Update.[168]

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[167]Applicants Response to PUC-HELCO-IR-49.

[168]Applicants Response to PUC-HELCO-IR-49(a).

8. The commission observes that the April 2016 PSIP Update represents more current thinking regarding the path to 100% renewable energy. Conversely, the Application was based on previous assumptions. Accordingly, the commission finds that the energy production estimate for the HEP Facility in the April 2016 PSIP Update is more likely to occur than the assumptions used in the Application.

9. This is a fundamental change in the HEP Facility's role in Hawaii Island's energy future. Under the previous planning assumptions and the basis of the Application, the HEP Facility was assumed to continue its contribution as a major energy provider. Under the April 2016 PSIP Update assumptions, the HEP Facility's estimated contribution and value is expected to decline to 25% of its current level by 2030.[169]

10. Another effect of the April 2016 PSIP Update is that Applicants' economic analysis for the HEP Facility after 2030 may be diminished.[170] If the PPA is renegotiated at the end of its present term in 2030, capacity payments may be significantly lower, as the HEP Facility's energy contribution is projected to decrease, as indicated by Table 1, above.

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[169] See Table 1, supra.

[170] See Table 1, supra.

11. In this regard, the commission notes HELCO's subsequent PSIP Update on December 23, 2016, in Docket No. 2014-0183, which indicates that utility-scale renewable resources will be added even earlier than was projected in the April 2016 PSIP Update, which will have the effect of reducing the HEP Facility's energy production even sooner. Table 2 compares the two results:

Table 2[171]

Comparison of PSIP Hawaii Island Results

Year	April 2016 PSIP	December 2016 PSIP
2020		20MW Wind
2022	20 MW Geothermal	
2025		20 MW Geothermal
2027	20 MW Biomass	20MW Biomass
2030	20 MW Geothermal	20 MW Wind 20 MW Geothermal
2034	20 MW Wind	
2038	20MW Wind	

12. Additionally, following the April 2016 PSIP Update, HELCO submitted an application for a general rate increase which contained similar information.[172] HELCO's supporting testimony in Docket No. 2015-0170 estimates energy production for the

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[171]See December 2016 PSIP Update, Book 1, page 4-27, at Table 4-8.

[172]See, Docket No. 2015-0170, "Application of Hawaii Electric Light Company, Inc. 2016 Test Year, Verification, and Certificate of Service," filed September 19, 2016 ("HELCO 2016 Rate Case Application").

HEP Facility in HELCO's 2016 test year at 110.8 GWH,[173] which is substantially lower than the April 2016 PSIP Update estimate for 2016 of 146 GWH,[174] indicating that the HEP Facility's estimated decline may occur even more rapidly.

B.

Applicants Have Not Sufficiently Demonstrated That The Purchase Will Result In Ratepayer Benefits

1.

HELCO's 2016 PSIP Updates Undermine The Estimated Benefits Of The Purchase

13. Applicants contend that customers will benefit from the Purchase due, in part, to the elimination of the firm capacity payments owed to HEP under the existing PPA.[175]

14. Applicants also predict that there will be savings in fuel expense as the actual heat rates used by HELCO for the HEP Facility are lower than those currently utilized under the PPA with HEP.[176]

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[173]See HELCO 2016 Rate Case Application, Workpapers in Support of Direct Testimonies, Book 4, at HELCO-WP-608.

[174]See Applicants Response to PUC-HELCO-IR-18.

[175]Application at 13 and Exhibit G.

[176]See Application at 13. Applicants estimate that the actual heat rates for the HEP Facility are approximately 4% lower (i.e., better) than the PPA's contractual heat rates. Id., Exhibit G at 1.

15. In their Application, Applicants summarized the estimated customer savings from the Purchase as follows:

Table 3[177]

Customer Benefits from HELCO Ownership (August 2014 PSIP) Assuming LNG Conversion ($ Million)

Savings Category	Nominal Savings thru 2030	PV of Savings thru 2030	Nominal Savings thru 2040	PV of Savings thru 2040
Capacity Charge	$16.2	$5.7	$80.0	$21.3
Operating	$35.9	$22.4	$14.8	$16.7
Cycling	$(11.7)	$(6.8)	$(20.7)	$(9.1)
Total Savings	$40.4	$21.2	$74.1	$28.9

16. The Application was based on the August 2014 PSIP assumptions. Under the April 2016 PSIP Update, there are two significant changes in the study assumptions that affect the economic evaluation of the HEP acquisition. First, current fuel prices are dramatically lower. Second, as discussed above in the preceding section, the current projection of the HEP Facility's energy production is significantly less than the projections under the previous August 2014 PSIP filing, upon which the Application was based.

17. In their response to PUC-HELCO-IR-52, filed September 7, 2016, Applicants were instructed to re-evaluate their economic analysis assuming the 2016 EIA Fuel Forecast used

[177]Application at Exhibit G.

in the April 2016 PSIP Update Report.[178] Applicants also re-evaluated the HEP Facility's energy production estimates using the April 2016 PSIP Update.[179]

18. As a result of Applicants' re-calculations using assumptions from the April 2016 PSIP Update, Applicants' economic analyses originally presented in Exhibit G to the Application were dramatically reduced; in terms of present value, the estimated savings thru the end of the PPA in 2030 decreased by more than an eight-figure amount and the estimated savings through the useful life of the HEP Facility in 2040 were actually negative.[180]

19. In addition, PUC-HELCO-IR-52 also instructed Applicants to perform the same updated analysis, but without assuming conversion to LNG fuel. Under this scenario, the estimated customer savings through the end of the PPA in 2030 declined even further; however, estimated savings to customers through the end of the HEP Facility's useful life in 2040,

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[178]Applicants Response to PUC-HELCO-IR-52 (Restricted).

[179]See Applicants Response to PUC-HELCO-IR-18.

[180]Applicants Response to PUC-HELCO-IR-52(c), Attachments 3 and 4 (Restricted). It is unclear to the commission why Attachments 3 and 4 were designated as "Restricted" by Applicants, as Applicants' original savings forecasts which contain the same type of information, were provided in un-redacted form as Exhibit G to the Application. The commission discusses this issue further, infra.

while still drastically reduced by an eight-figure amount from the estimates in the Application, were no longer negative.[181]

20. Applicants' response to PUC-HELCO-IR-52 shows that when lower energy production is assumed (consistent with the April 2016 PSIP Update), the estimated benefits to customers through 2030 are substantially less than what was projected in the Application.[182] Extrapolating through 2040, the estimated customer savings are either still severely reduced, or even negative, depending on whether LNG is implemented at the HEP Facility.[183]

21. The scenario of the reduced HEP Facility energy production with the current fuel forecast and no LNG (i.e., "Theme 3" from the April 2016 PSIP Update) is the most probable to occur, as it more closely aligns with the information contained in the recent April 2016 and December 2016 PSIP Updates.[184] The commission observes that the customer benefits are relatively

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[181]See Applicants Response to PUC-HELCO-IR-52, Attachment 4 (Restricted).

[182]See Applicants Response to PUC-HELCO-IR-52, Attachment 3 (Restricted).

[183]See Applicants Response to PUC-HELCO-IR-52, Attachment 4 (Restricted).

[184]While the estimates contained in Applicants' response to PUC-HELCO-IR-52 are based on assumptions from the April 2016 PSIP Update, they are also supported in principle by the December 2016 PSIP Update, as the December 2016 PSIP Update projects an even more rapid integration of renewable energy sources, which accelerates the projected decrease in the HEP Facility's estimated energy production. See Table 2, infra.

marginal for this case. If operating expenses or capital expenditures increase over current estimates, the estimated customer benefits could quickly disappear, or even become negative.

22. In addition to examining the customer benefits in total, it is helpful to analyze the annual impact to customers. Applicants' response to PUC-HELCO-IR-52 also provided estimates of the annual bill impacts for the updated scenarios.[185] According to Applicants' economic analysis, during the years immediately following the Purchase, customers are projected to pay more under HELCO ownership than if the HEP Facility continued as an IPP under HEP.[186]

23. Thus, the benefit to customers is expected to occur only in the long term; meanwhile, there are projected short-term costs which could diminish or completely eliminate any such future benefits to ratepayers.

24. Accordingly, when taking into account the April 2016 PSIP Update planning assumptions, the Purchase appears detrimental to HELCO's customers.

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[185]See Applicants Response to PUC-HELCO-IR-52, Attachment 3 at 15 and Attachment 4 at 12 (Restricted).

[186]See Applicants Response to PUC-HELCO-IR-52, Attachment 3 at 15 and Attachment 4 at 12 (Restricted).

25. Furthermore, Applicants' economic analysis does not considers a contingency for capital costs. If the cost of future capital expenditures for the major maintenance and overhauls to the HEP Facility are higher than currently estimated, benefits to ratepayers could be eliminated and costs may actually be higher than what is currently faced under the existing PPA.

26. Accordingly, taking into account the April 2016 and December 2016 PSIP Updates, the commission concludes that the Purchase is likely to result in only marginal economic benefits to HELCO's customers, who will still bear all of the risks associated with HELCO owning and operating the HEP Facility.

2.

The Commission Is Not Persuaded By
Applicants' Supplement To Their Updated Estimates

27. On September 23, 2016, Applicants filed a supplement to their response to PUC-HELCO-IR-51. As noted above, Applicants' response to PUC-HELCO-IR-51 and -52 contained Applicants' revised economic analyses which incorporated the April 2016 PSIP Update (which significantly reduced the projected economic benefits of the Purchase as presented in the Application).

28. Applicants' supplemental response, filed sixteen days later, showed a dramatic reversal of the results submitted in

Applicants' original response to PUC-HELCO-IR-52, in some cases projecting customer savings that exceeded the original estimates in the Application (depending on whether the HEP Facility did not convert to LNG).[187]

29. The primary difference in this economic analysis was attributed to a change in the minimum run time of the HEP Facility's generation units, which was intended to simulate the

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[187]See Applicants Supplemental Response to PUC-HELCO-IR-52 (referring to Applicants Supplemental Response to PUC-HELCO-IR-51).

The commission notes that Applicants have exhibited inconsistent behavior regarding this information. In their Application, Applicants freely provided tables summarizing the estimated savings from the Purchase. See Application at Exhibit G. However, in response to PUC-HELCO-IR-52, Applicants designated *identical* tables as "restricted," thereby barring them from disclosure to the public and the Participants. See Applicants' Response to PUC-HELCO-IR-52, Attachment 3 at 1, and Attachment 4 at 1 (Restricted). Later, Applicants then returned to their original practice and freely disclosed the tables summarizing the estimated savings in their Supplemental Response. See Applicants' Supplemental Response to PUC-HELCO-IR-51 at 4-5.

Thus, Applicants have freely provided such information when it demonstrates a favorable, large estimated savings, but have "restricted" it when it demonstrates reduced or negative savings. While this may be inadvertent, at a minimum, it indicates a concerning lack of consistency and disregard for the protections authorized in the Protective Order. The commission emphasizes that the Protective Order is strictly governed by the UIPA and is only intended to protect *confidential* information, as defined by the UIPA, and not merely to conceal information that is embarrassing or detrimental to a Party's position.

However, the commission declines to take specific action on this issue at this time, given its findings and conclusions on similar issues, as discussed, infra, at Section IV. G.

benefit of removing the one-start per day restriction in the current PPA:

> In response to [PUC-HELCO] IR-51, the modeled energy production for HEP under Hawaii Electric Light ownership is less than for HEP as an IPP due to the change in minimum up and down times provided to the model for IPP ownership and Hawai'i Electric Light ownership. This modeling difference was intended to capture the impacts of the present single start per day restriction under IPP ownership, and removal of this restriction under Hawai'i Electric Light ownership.
>
> The minimum up/down times for HEP under Hawai'i Electric Light ownership were modeled as 1/1 hours respectively, compared to 2/8 hours for HEP as an IPP. Under the model assumptions used for IPP ownership, if HEP was dispatched for the morning load rise and then again for the evening peak, the model would not cycle HEP offline and would model HEP on most of the day (at lower dispatch, and potentially increasing curtailed energy). This is to attempt to capture the impact of single start per day restrictions as occurs in real-time operations. Under Hawai'i Electric Light ownership, the model parameters are changed as the restriction is assumed to be removed, and the model captures improved offline cycling flexibility of HEP so that it could cycle off during the midday PV peak. With the single start per day restriction removed, there are consequently more HEP starts, but fewer hours of dispatch, and reduced MWH production."[188]

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[188]Applicants Response to PUC-HELCO-IR-61. PUC-HELCO-IR-61 and Applicants' response reference Applicants' response to "PUC-HELCO-IR-51, attachments 1-4." To avoid confusion, this reference is to Applicants' *Supplemental* Response to PUC-HELCO-IR-51, filed September 23, 2016; not Applicants' *Initial* Response to PUC-HELCO-IR-51, filed September 7, 2016. Applicants' September 23, 2016, Supplemental Response contains

30. The potential need for multiple starts of the HEP Facility is driven by the shape of HELCO's daily load profile. With the large penetration of wind and PV resources on Hawaii Island, the load rises during the early morning until sunrise when the PV resources begin to reduce the load and continues its impact until sunset, when there is an evening load rise.

31. Under the restrictions in place by the current PPA, if the HEP Facility is started to meet the morning load rise, it must continue to operate throughout the day, even though it is not needed until the evening load rise. Conversely, without the PPA restriction, the HEP Facility could be cycled off after the morning peak and re-started for the evening peak, thereby avoiding unnecessary dispatch and curtailment, as implied by HELCO's response to PUC-HELCO-IR-61.

32. However, Applicants' explanation is not consistent with their responses and asserted positions in other dockets.

33. The commission requested additional detail on how the HEP Facility would be dispatched on a typical day without the one start per day restriction in PUC-HELCO-IR-73. Applicants' response indicates that HELCO does not use the HEP

"attachments 1-4" to their response to PUC-HELCO-IR-51, while Applicants' September 7, 2016, responses do not.

Facility in normal operations unless they think the morning load rise will last for three hours or more.[189] Rather HELCO dispatches Puna CT3 if it anticipates that the morning load requirement is three hours or less.[190] As HELCO explains:

> Due to the single start per day restriction, the first start of HEP is avoided if it is thought to be for a relatively short period in the morning (less than three hours). Under these conditions, CT3 will be operated until solar-PV production or other variable energy comes online as forecasted, despite its higher cost, to avoid it being online if not needed later in the day.[191]

34. Accordingly, based on HELCO's statements, the PPA's one start per day restriction is not a factor unless HELCO's forecast underestimates contributions from wind and PV generation, which undermines the purported benefit of increased cycling flexibility. Concomitantly, Applicants state that the HEP Facility is required to start in the morning and run through the evening peak during low wind and hydro conditions, implying that even with increased operational flexibility, the HEP Facility may still operate under similar "one start" conditions.[192]

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[189]See Applicants Response to PUC-HELCO-IR-73(a).

[190]See Applicants Response to PUC-HELCO-IR-73(a).

[191]Applicants Response to PUC-HELCO-IR-73(a).

[192]See Applicants Response to PUC-HELCO-IR-73(a).

35. Furthermore, when asked about alternatives to eliminate the need for multiple starts of the HEP Facility, HELCO states:

> If it is not expected to be more economical to use HEP *for the morning load-rise and then* take it offline, the simple-cycle CT3 would continue to be utilized as it is today. As shown in the illustrations in the response to PUC-IR-73, even if more than one start per day were available, HEP would not always be started more than once per day. Moreover, as discussed in responses to PUC-IR-73 and PUC-IR-72, one of the advantages of the single start per day restriction being removed is the ability to adjust the commitment for forecast errors (something not captured fully in production simulations, which generally assume a perfect forecast).[193]

36. Similarly, in response to PUC-HELCO-IR-76, when asked about alternatives to removing the one start per day restriction, HELCO indicates that it is able to work around the restriction:

> The single start per day restriction is a contract term and would require negotiated terms with the owner. The system operator uses the following to mitigate the impacts: delaying HEP and starting the more flexible, but less efficient, CT3 generator when uncertainty exists; and curtailment of renewable resources if variable generation was under-forecast and HEP cannot be taken offline. These alternatives do not alter the estimated costs/benefits of Hawai'i Electric Light acquiring the HEP Facility.[194]

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[193]Applicants Response to PUC-HELCO-IR-75(a).

[194]Applicants Response to PUC-HELCO-IR-76.

37. Thus, while HELCO's economic analysis in its supplemental response to PUC-HELCO-IR-51 reflect a significant savings in fuel expense from cycling the HEP Facility after the morning peak and restarting HEP during the evening peak hours, its responses to the subsequent information request cited above indicate that under HELCO's actual operations:

i. HELCO starts its Puna CT3 if it is expected to be required for less than three hours, which eliminates the need to start HEP more than once per day.

ii. During high levels of wind, hydro and PV, HEP is not required to start at all.

iii. During low levels of wind and hydro, HEP would be required for the day and evening peak hours without the need to cycle.

iv. The benefit to removing the one start per day will provide flexibility if the actual levels of wind, hydro and PV are less than forecasted and additional generation is required.

38. Therefore, it appears that in actual operations, the one start per day restriction is not a regular issue. As such, without any forecasting errors, the commitment of generating units would be the same whether the HEP Facility is an IPP or under HELCO ownership.

39. Thus, the simulation used in HELCO's response to PUC-HELCO-IR-51 may not reflect actual operations and costs. The actual utilization of the HEP Facility is a complex decision

process and it may not be modeled accurately in the production simulation. The commission is not convinced that Applicants have provided sufficient evidence that removing the one start per day PPA restriction will lead to the projected fuel savings.

40. HELCO's recent testimony in its current rate case application, Docket No. 2015-0170,[195] corroborates this conclusion. HELCO's 2016 Rate Case Exhibit HELCO-619,[196] describes the differences in the production simulation results for the HEP Facility between HELCO's 2016 Rate Case (Docket No. 2015-0170) and the Application (Docket No. 2016-0033). Notably, the HELCO 2016 Rate Case treats the Puna CT3 as an intermediate, rather than a peaking, resource, intended to meet the morning load rise prior to mid-day PV production, instead of starting the HEP Facility.[197] In other words, according to HELCO's supporting testimony in its pending rate case, the Puna CT3, not the HEP Facility, is modeled to handle the morning load, which diminishes the purported benefit of allowing the HEP Facility to start more than once a day.

41. HELCO's Exhibit HELCO-619 goes on to state:

> The 2016 test year rate case production simulation results also showed some

[195]In its 2016 Rate Case, HELCO seeks commission approval for a general increase in rates based on an estimated 2016 Test Year.

[196]HELCO 2016 Rate Case Application, Direct Testimonies and Exhibits, Book 2, at Exhibit HELCO-619 ("HELCO Rate Case Exhibit HELCO-619").

[197]HELCO 2016 Rate Case Exhibit HELCO-619 at 1.

> displacement of HEP energy by Puna CT3. In the HEP Purchase Application, Puna CT3 was treated as a peaking resource, but for the 2016 test year rate case, the production simulation modeled Puna CT3 as an intermediate unit to meet the morning load rise prior to PV production, instead of starting HEP. The rate case aligns with the present use of Puna CT3. With the increased interconnection of DG-PV, operational guidelines for unit commitment were changed to utilize Puna CT3 for short-term energy needs for the short-term morning peak that occurs before DG-PV production.

42. Additionally, comparison of estimated fuel expense for the 2016 test year for the HEP Facility in the HELCO 2016 Rate Case indicates that there is little difference whether the HEP Facility remains as an IPP or operates under HELCO ownership. In HELCO's supporting work paper HELCO-WP-608, the fuel portion of the IPP contract for the HEP Facility is estimated to be $12,982,800; conversely, the estimated fuel expense for the HEP Facility under HELCO ownership is $12,799,000.[198] The small difference in estimated fuel expense indicates that there is little change in the HEP Facility's operation whether it continues as an IPP under the PPA or under HELCO's ownership.

43. Thus, according to HELCO's filings in its 2016 Rate Case (Docket No. 2015-0170), it does not appear that the HEP Facility is expected to serve the morning peak period, and the

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[198]<u>See</u> HELCO 2016 Rate Case Application, Workpapers in Support of Direct Testimonies, Book 2, at HELCO-2701 and HELCO-2704.

one start per day restriction in the PPA does not significantly affect HELCO's daily operation.

44. Additionally, the simulated fuel expense under both scenarios indicates little difference, which corroborates the results provided in PUC-HELCO-IR-52.

45. Based on the above, the commission finds that Applicants' explanation for the different, more favorable, estimates in their supplemental response to PUC-HELCO-IR-51 are not persuasive, as they do not appear to represent the actual operations of the HEP Facility and are not consistent with HELCO's assumption in its 2016 Rate Case.

C.

Applicants' Estimates Extending Through 2040 Regarding The HEP Facility's Remaining Useful Life Are Speculative

46. Applicants also presented economic evaluations past 2030 (the scheduled termination of the PPA), assuming continued operation of the HEP Facility through 2040 (the projected end of the HEP Facility's useful life).

47. However, evaluating the costs and benefits of HELCO ownership of the HEP Facility post-2030 involves a comparison to the costs and benefits of the HEP Facility operating as an IPP post-2030, which requires assumptions regarding the terms of such a PPA extension, post-2030. At this time, the future use

and value of the HEP Facility after 2030 is uncertain and any valuation assumptions beyond the PPA's scheduled termination are speculative without supporting analyses or documentation.

48. At the scheduled end of the PPA term in 2030, the energy production from the HEP Facility is projected to be significantly reduced and continuing to decline.[199] Additionally, in 2030, there may be more renewable opportunities to further displace the HEP Facility's energy production.[200]

49. Thus, if HELCO and HEP were to extend the PPA after 2030, the value of the HEP Facility's capacity could be significantly less, as there may be less demand for the HEP Facility's energy production. At a minimum, given these updated projections and circumstances, it is unlikely that a PPA extension would contain materially similar terms, such as dispatch and cost.

50. Additionally, in order for the Purchase to have an avoided capacity value, the HEP Facility's capacity would need to defer acquisition of another firm power resource in the 10 years following the expiration of the PPA (thereby deferring future capital costs). However, it is very likely that the HEP Facility's continued operation will defer firm power from renewable

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[199]See Table 1, infra.

[200]See Table 2, infra.

resources. Thus, even if the Purchase may result in deferred capital costs, from the perspective of achieving 100% RPS, extending the HEP Facility's capacity is undesirable.

51. In response to PUC-HELCO-IR-79, Applicants stated that they assumed a 35% reduction in capacity payments for the PPA in performing their economic analysis to determine the HEP Facility's value between 2030 to 2040.[201] However, no supporting documentation for this value was provided to this response.

52. In light of this, and given that the HEP Facility is not expected to be a major energy provider by 2030, Applicants' assumption that the HEP Facility will still be operating at 65% capacity is an unsupported and overly-optimistic assumption.

53. Given these issues and concerns, the commission finds it reasonable and prudent to only consider Applicants' economic evaluation for the HEP Facility through the end of the PPA term in 2030 because these terms are known and the costs can be reasonably estimated. The commission declines to rely on speculative information regarding valuation of the Facility after 2030 in addressing this Application.

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[201]Applicants Response to PUC-HELCO-IR-79.

D.

Reasonableness Of The Acquisition Cost

54. Applicants maintain that the Purchase price is reasonable because the HELCO ownership scenario is favorable in the "customer value," "breakeven," and "discounted cash flow analysis." The customer value analysis showed positive savings, the breakeven analysis showed a value of $109 million, and the discounted cash flow analysis indicated a value of $98 million. HELCO also engaged the services of Duff & Phelps to assist in the valuation of the HEP Facility.

55. Based on the above, HELCO concludes that the Purchase price of $86.2 million is reasonable.

56. Under the customer value methodology, the acquisition amount is reasonable if the benefits exceed the costs. As discussed above, when the April and December 2016 PSIP Updates are taken into account, the estimated customer benefits are significantly reduced from the estimates provided in the Application.

57. Although the overall estimated savings remain marginally positive, these customer benefits are small, and in the early years after Purchase customers are expected to pay more under HELCO ownership.

58. Thus, under the customer value approach, the Purchase can just barely be considered a positive economic

transaction for HELCO's customers, as the estimated benefits are marginal at best and could easily disappear if costs are higher than expected.

59. The breakeven analysis would also be affected by the new planning assumptions. Although a new analysis was not provided by HELCO, the small margin in the customer value analysis suggests that the breakeven purchase price is very close to the Purchase price of approximately $88 million instead of the $109 million "breakeven" presented in the Application.

60. As noted by the Consumer Advocate in its Statement of Positon, the "breakeven" price represents a "first cut" for even considering a purchase.[202] Given the small margin of estimated customer benefits, the Purchase price is dangerously close to a "breakeven" point, which does not support approval.

61. The commission also has concerns about the discounted cash flow analysis and the Duff & Phelps Report. These analyses may not take into account the most recent assumptions regarding the HEP Facility's capacity.[203] As noted by the Consumer Advocate, the capacity factors for the HEP Facility provided by HELCO in its 2016 rate case were not used in the Duff & Phelps Report, and may have resulted in a different value

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[202]CA SOP at 11-12.

[203]See Duff & Phelps Report, Attachment 2 at 31 (Restricted).

assessment.[204] As a result, it is possible that the Duff & Phelps Report has relied on modeling assumptions that are no longer accurate based on the most recent information.

62. Additionally, the Duff & Phelps Report does not appear to consider the potential impact of Hawaii's Act 234 on Green House Gas (GHG) Emissions. If acquired by HELCO, the HEP Facility's GHG emissions can easily be absorbed in HELCO's GHG emission reduction plan. However, if the HEP Facility remained as an IPP under HEP, it would have to have its own emissions reduction plan approved by the State of Hawaii, Department of Health (DOH).

63. In response to CA/HELCO-SIR-19, HELCO states:

> HEP submitted a GHG EmRP to DOH in June 2015. That plan concluded that it is not technically and economically feasible for HEP to reduce GHG emissions more than 1 percent below its 2010 baseline emissions. Accordingly, HEP's EmRP committed to do enhanced equipment cleaning that will lower its GHG emissions an estimated 0 to 1 percent. That falls short of the 16 percent reduction called for under DOH's GHG reduction regulations. DOH has not yet responded to that proposal.

64. If the HEP Facility must comply with the GHG regulations, additional investment in the HEP Facility by HEP may be required or HEP may have to curtail its energy production

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[204] See CA SOP at 17.

further. This may affect the discounted cash flow analyses and Duff & Phelps Report.

65. Furthermore, the potential impact of the GHG regulation represents a serious risk to a third-party investor. The value of the HEP Facility may be less if investors consider the impact of the GHG regulation.

66. Given these unaddressed concerns, the commission does not find the valuation provided in the Duff & Phelps Report and Applicants' discounted cash flow analysis conclusive regarding the actual value of the HEP Facility.

E.

Public Interest Considerations

1.

Acquiring The HEP Facility And The State's RPS Goals

67. Hawaii Island has significant renewable resource opportunities as indicated in the April 2016 PSIP Update. Without a conversion to LNG or other lower-priced fuel, the HEP Facility will remain an oil-fired producer whose output should be minimized over time, consistent with the State's RPS goals.

68. If purchased by HELCO, the HEP Facility's operation is projected to extend thru 2040. The current PPA expires in 2030. As there appear to be other renewable alternatives, the commission

has concerns that extending the operation of an oil-fired power plant is not in the public interest.

69. In response to PUC-HELCO-IR-69, HELCO states:

> At this time, while Hawaii Electric Light views firm renewable projects to be valuable in achieving the State's clean energy goals, and has made efforts to procure geothermal and biomass energy, there are no concrete plans for firm renewable projects to be implemented and online in the next five years. New projects would require an expedited RFP under the competitive bid process, or a waiver from competitive bidding to be completed in that time frame.

70. This statement alludes to projects that were progressing towards implementation but have been terminated. For example, HELCO entered into an agreement with Hu Honua for a 21.5 MW biomass project in 2012, and selected ORMAT to provide 25 MW of geothermal power in response to an RFP in 2015. Unfortunately, the agreement with Hu Honua was terminated by HELCO in March 2016,[205] and negotiations with ORMAT failed to reach agreement and ORMAT withdrew its proposal in February 2016.[206]

71. While the commission notes that since then, HELCO has filed a request with the commission to open a new docket and appoint an Independent Observer for the purpose of acquiring

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[205]See Letter from J. Viola to commission, filed March 4, 2016, filed in Docket No. 2012-0212.

[206]See Letter from J. Ignacio to commission, filed February 10, 2016, in Docket No. 2012-0092.

additional renewable energy resources through the RFP process,[207] this process is still in its early stage of development, and it is unclear at this time what the nature and scope of HELCO's actual renewable energy acquisitions will be in the near future.

2.

Customer Risk

72. In addition to the risk that customers may not realize any economic benefit from the purchase, there are other risks associated with HELCO ownership and operation of an oil-fired power plant, including the risk that the HEP Facility will no longer be needed in the future. The April 2016 PSIP Update planning studies show a declining contribution from the HEP Facility. The most current analyses in the December 2016 PSIP Update suggest that the energy reductions may occur even sooner.[208]

73. In current operations, the HEP Facility is not started if there is enough wind, hydro, and PV power available.[209] In the event that generation from renewable resources increases more quickly than anticipated, the HEP Facility may no longer be needed and may become a "stranded" investment. As the Purchase

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[207]See Letter from J. Ignacio to commission, filed January 6, 2017.

[208]See Table 2, infra.

[209]See Applicants Response to PUC-HELCO-73(a).

price of approximately $88 million is relatively large compared to HELCO's total rate base,[210] this may pose a serious risk to customers, in the event that HELCO attempts to recover any stranded costs through base rates or some other cost recovery mechanism. This is not an insignificant issue, and the Consumer Advocate went so far as to condition approval on a provision that would prohibit HELCO from recovering any remaining book value of the HEP Facility in the event that it ceased to be used and useful during the remainder of its estimated useful life.[211]

74. Furthermore, there are risks that future environmental legislation could impose restrictions or additional operating requirements that could add costs to operating an oil-fired power plant.

F.

Summary

75. After reviewing the record, the commission finds that customer benefits are not sufficiently demonstrated to justify the Purchase.

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[210]In HELCO 2016 Rate Case testimony in Docket No. 2015-0170, HELCO's 2016 estimated rate base is approximately $479 million. See HELCO 2016 Rate Case Application, Direct Testimonies and Exhibits, Book 9, Exhibit HELCO-2701, at 1.

[211]See CA SOP at 27-28.

76. Under the current planning assumptions, as reflected in Applicants' September 7, 2016, responses to PUC-HELCO-IR-51 and -52, the estimated benefits to customers are marginal over the remaining term of the PPA. At the same time, under this analysis, customers are anticipated to pay more during the initial years following the Purchase, with realization of benefits only many years later.

77. Considering this small estimated benefit margin and risk that future costs could increase above the current estimates, the proposed Purchase of the HEP Facility does not conclusively demonstrate that HELCO's customers will benefit. Conversely, HELCO bears no risk in this transaction as all its costs will be recovered through rates. However, if the HEP Facility is left as an IPP, the investment risk to ratepayers can be avoided.

78. From the perspective of HELCO's and the State's strategic objective to reach 100% RPS, the HEP Facility should be viewed as another oil-fired plant with energy production that should be minimized as renewable resources become available.

79. The HEP Facility's energy contribution is expected to decrease and any fuel savings under HELCO's ownership will also decrease, making the purchase of the HEP Facility less attractive as more progress is made towards 100% RPS. The HEP Facility itself may become unnecessary if sufficient renewable resources and demand response resources become available.

80. Taking this into consideration, the Purchase does not appear to be a strategic investment. Conversely, continuing the PPA with HEP for another 15 years represents a firm power source without additional risks to ratepayers.

81. Accordingly, the commission finds and concludes that the proposed Purchase described in the Application is unnecessary and unreasonably in excess of probable future requirements for HELCO's purposes. To the extent that the HEP Facility may still provide necessary or reasonable services to HELCO, these can be obtained under the existing PPA without the estimated costs and risks to HELCO's customers associated with purchasing the HEP Facility.

G.

Paniolo Power's Motion To Compel And Related Motions Are Moot

82. Regarding Paniolo Power's Motion to Compel, as Paniolo Power opposes the Application,[212] the commission's decision to deny the Application renders Paniolo Power's Motion to Compel, and associated motions,[213] moot.

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[212] See Paniolo Power Statement of Position.

[213] See Paniolo Power Motion for Leave to File Response to Applicants' Response to Order No. 34355; HEP Motion for Leave to File Supplemental Briefing; and Paniolo Power Motion for Leave to File Response to HEP Motion for Leave.

83. Paniolo Power moved to compel Applicants to produce certain IR responses Applicants had designated as "restricted" to Paniolo Power.[214] Paniolo Power's Motion states that "Paniolo Power believes that such documents involve the valuation and/or costs associated with the HEP Facility, which are important issues that Paniolo Power should have the ability to confirm the accuracy and methodology of before a decision is made in this proceeding."[215]

84. Presumably, Paniolo Power intended to incorporate this information into its Statement of Position. However, as the commission's decision is consistent with Paniolo's Power's asserted position, this moots Paniolo Power's need for additional information to support its position.

85. While Paniolo Power was not able to review this information before it filed its Statement of Position, it is unlikely that disclosure of the requested information would have changed Paniolo Power's position.

86. Although Paniolo Power partly based its opposition on Applicants' refusal to provide the requested information, Paniolo Power's Statement of Position reveals that Paniolo Power arrived at its conclusion through a number of independent analyses

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[214]Paniolo Power Motion to Compel at 1.

[215]See Paniolo Power Motion to Compel, Memorandum in Support, at 13.

that did not require the requested information. For example, regarding Paniolo Power's arguments that Applicants have over-valued the HEP Facility, Paniolo Power worked around Applicants' withholding of the Duff & Phelps Report by conducting a capacity value analysis and a straight-line value analysis to conclude that the proposed Purchase price is too high.[216]

87. Additionally, Paniolo Power also opposed the Application on the basis that the Application: incorrectly assumes the costs for operating the HEP Facility under HELCO ownership; only demonstrates minimal and/or negligible qualitative benefits to HELCO ownership; fails to evaluate the Purchase against the long-term resource plan for Hawaii Island; and is contrary to State law and policy.[217]

88. Given Paniolo Power's comprehensive and unequivocal opposition to the Application, it is doubtful that disclosing the requested information at this time would have a material effect on Paniolo Power's position.

89. Accordingly, the commission dismisses Paniolo Power's Motion to Compel, as well as HEP's Motion for Leave to File Supplemental Briefing, Paniolo Power's Motion for Leave to

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[216]See Paniolo Power Motion to Compel, Memorandum in Support, at 8-12.

[217]See Paniolo Power Motion to Compel, Memorandum in Support, at 12-28.

File Response to Applicants' Response to Order No. 34355, and Paniolo Power's Motion for Leave to File Response to HEP Motion for Leave as moot.

90. However, the commission cautions Applicants against abusing the privileges and protections of the commission's protective orders.[218] Going forward, all parties and participants to the commission's proceedings should carefully review and abide by the provisions of the protective order, including the provisions of the UIPA, which are incorporated by reference.

91. Finally, it appears that the Consumer Advocate may have inadvertently disclosed restricted information on page 24 of its Statement of Position. The commission will seal the Consumer Advocate's Statement of Position and instructs the Consumer Advocate to file a properly redacted version within one week of this Order.

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[218]As noted, supra, there is no apparent distinction between the estimated savings information contained in the Exhibit G of the Application, Attachments 3 and 4 to Applicants' September 7, 2016, Response to PUC-IR-51 and -52, and Attachments 3 and 4 to Applicants' September 23, 2016, Supplemental Response to PUC-HELCO-IR-51 and -52, yet Applicants have inexplicably designated that information in Attachments 3 and 4 to their September 7, 2016, Responses to PUC-IR-51 and -52 as "Restricted."

V.

ORDERS

THE COMMISSION ORDERS:

1. The Application is denied, which includes Applicants' requests to:

> a. Approve approximately $88,065,000 in funds to purchase the HEP Facility (which includes transfer taxes and scheduled overhaul costs), pursuant to the commission's General Order No. 7;
>
> b. Approve a financing plan which includes debt and equity financing;
>
> c. Approve the recovery of $85,400,000 in revenue requirements for plant additions associated with the HEP Facility purchase through the RAM above the RAM Cap;
>
> d. Approve accounting for the $86,200,000 purchase price of the HEP Facility, subject to fair value assessment of the HEP Facility;
>
> e. Approve the inclusion of any costs and credits issued under the December 2, 2011, Fuel Supply Agreement between Chevron Products Company and HEP into HELCO's Energy Cost Adjustment Clause to the extent such costs are not included in HELCO's base rates; and
>
> f. Terminate or otherwise eliminate the application of Decision and Order No. 17077, as modified by Decision and Order 17089, filed in Docket No. 98-0013.

2. Paniolo Power's Motion to Compel, and all associated motions and requests, are dismissed as moot, for the reasons set forth herein.

3. The commission will seal the Consumer Advocate's Statement of Position, filed January 11, 2017, and instructs the Consumer Advocate to file a properly redacted version within one week of this Order.

4. Following the submission of the Consumer Advocate's properly redacted Statement of Position this docket is hereby closed, unless otherwise ordered by the commission.

DONE at Honolulu, Hawaii MAY - 4 2017.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Randall Y. Iwase
Randall Y. Iwase, Chair

By Lorraine H. Akiba
Lorraine H. Akiba, Commissioner

By Thomas C Gorak
Thomas C. Gorak, Commissioner

APPROVED AS TO FORM:

Mark Kaetsu
Mark Kaetsu
Commission Counsel

2016-0033.ljk

<u>CERTIFICATE OF SERVICE</u>

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

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